

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4661 of 1999

to

FIRST APPEAL No 4689 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.H.KADRI

and

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SPECIAL LAND ACQUISITION OFFICER

Versus

RAMJIBHAI DALSANGBHAI RAGHJIBHAI CHAUDHARI

Appearance:

MR SJ DAVE, AGP for Appellants

MR AMIT C NANAVATI for Respondent No. 1

CORAM : MR.JUSTICE M.H.KADRI

and

MR.JUSTICE C.K.BUCH

Date of decision: 05/04/2000

COMMON JUDGEMENT (PER : M.H.KADRI, J)

The appellant, by filing these First Appeals under Sec.54 of the Land Acquisition Act, 1894 (to be referred to as the "Act" for short), read with sec.96 of the Code of Civil Procedure, has challenged the common judgment and award dated 21st November, 1998 passed by the learned Assistant Judge, Mehsana in a group of Land Reference Case Nos. 3017/93 to 3045/93. As common questions of facts and law are involved in these First Appeals, we propose to dispose of them by this common judgment.

Lands of respondents-claimants situated at village Bamosana, Ta: Mehsana, were placed under acquisition for the public purpose of Dharoi Canal Project, Visnagar by issuance of notification under Sec.4(1) of the Act which was published on 7th March, 1991. After following usual procedure under the Act, declaration under Section 6 of the Act was made which was published in Government Gazette on 18th July, 1991. Thereafter, notices under Section ((3)(4) of the Act were served on the claimants. Claimants, in response to the notices, claimed compensation of the acquired lands before the Land Acq. Officer at the rate of Rs.20/ per sq.mt. Land Acq. Officer, on the basis of the material placed before him, made his award on 29th September, 1992 and offered compensation for the acquired lands at the rate ranging from Rs. 2.30 to Rs. 2.60 per sq.mt. Claimants were of the opinion that the compensation offered by the Land Acq. Officer was inadequate and, therefore, they filed applications under Sec.18 of the Act requiring the Land Acq. Officer to refer their applications to the District Court, Mehsana for determination of the market value of the acquired lands. Accordingly, said applications were referred by the Land Acq. Officer to the District Court, Mehsana which came to be numbered as Land Reference Case Nos. 3017/93 to 3045/93. All the reference cases were consolidated. Parties led common evidence in Land Reference Case No.3024/93. Claimants in support of their claim of enhanced compensation, examined one Ramjibhai Dalsangbhai Chaudhari at exh.11 who was the claimant of Land Reference Case No.3024/93. The witness deposed that acquired lands were having high fertility and they were getting annual yield of Rs. 15,000/ to Rs. 20,000/ per vigha. The witness, during his deposition, stated that lands of other farmers of the same village were acquired for the public purpose of construction of road wherein notification under sec. 4(1) of the Act was issued on

13th October, 1980 and 27th May, 1981, wherein Reference Court had determined market value of the acquired land of the concerned village Bamosana at the rate of Rs.1000.00 per Are viz. Rs. 10.00 per sq.mt. The witness, in his deposition, produced previous award at exh.43 and deposed that the lands of previous award at exh.43 and present acquired lands were comparable in all respect. Reference Court, for determination of market value of the present acquired lands of village Bamosana, relied on the previous award at exh.43. Witness also produced previous award of the acquired lands of village Pudgam at exh.44. Reference Court awarded compensation at the rate of Rs.10.00 per sq.mt. for the lands situated adjacent to village Pudgam for which the required notification under sec.4(1) of the Act was published in the Government Gazette dated 16th April, 1983. This witness also produced previous award at exh.45 which relates to the acquired lands of village Motidau which lands came to be acquired by notification under sec.4(1) of the Act dated 9th May, 1985, wherein also, compensation was determined at the rate of Rs.10.00 per sq.mt. The witness also produced previous award at exh.46 with regard to the acquired lands of village Piludara, Ta: Mehsana. The acquired lands of previous award at exh.46 of village Piludara were acquired by notification under sec. 4(1) of the Act dated 30th May, 1985, wherein also the Reference Court had determined market value of the acquired lands at the rate of Rs.10.00 per sq.mt. The witness volunteered that village Pudgam, Motidau and Piludara are situated adjoining to the acquired lands of village Bamosana. The claimants had also produced maps at exh.47 & 48 which also indicated that acquired lands of previous award and the present acquired lands were situated in the adjoining area. The witness deposed that present acquired lands were having same fertility, if compared with the previous award at exh.43 of of the same village Bamosana and other previous awards relating to the lands of village Pudgam, Motidau and Piludara. Reference Court, relying on the previous awards produced by the claimants, determined market price of the acquired lands at the rate of Rs. 10.00 per sq.mt. which has given rise to filing of these appeals by the appellant.

We have heard learned AGP Mr. S.J.Dave for the appellant State and learned counsel Mr.A.C. Nanavati for the respondents. Learned counsel for the parties have produced relevant documentary evidence and the copies of the previous awards at exh.43 to 46 and other documents for the purpose of deciding these appeals. We have perused relevant documents and papers produced by the learned counsel for the parties. Learned counsel for the Government has submitted that previous awards produced by

the claimants were not at all comparable for the purpose of determination of the market value of the present acquired lands and the compensation offered by the Reference Court is at a higher side and, therefore, appeals should be entertained. This submission of the learned AGP appearing for the appellant deserves to be rejected. It is settled legal principle that in absence of any other evidence, Reference Court can rely on the previous award for the purpose of determining market value of the acquired lands, if the lands of previous award were acquired within the near proximity of time and were comparable with present acquired lands with regard to their fertility and situation. In our opinion, acquired lands of previous awards at exh.43 to 46 were, in all respect, comparable and relevant for the determination of market value of the present acquired lands of village Bamosana. We are of the opinion that the Reference Court has committed no error in relying on the previous award of the same village as well as of villages Pudgam, Motidau and Piludara. It may be mentioned that by the previous award at exh.44, lands of village Pudgam which were acquired in the year 1983, market value determined as on that date is at the rate of Rs.10.00 per sq.mt. Similarly, for the acquired lands of village Motidau, as on 9th May, 1985, market value was determined at the rate of Rs.10.00 per sq.mt. and similarly, for the acquired lands of village Piludara, market price as on 30th May, 1985, was determined at the rate of Rs. 10.00 per sq.mt. The present acquired lands which are the subject matter in these appeals, were acquired in the year 1991 and, therefore, Reference Court was justified in determining market value of the present acquired lands at the rate of Rs.10.00 per sq.mt. We are of the opinion that the Reference Court had committed no error in placing reliance on the previous awards at exh.43 to 46 for the determination of market value of the present acquired lands. Learned counsel for the respondents has pointed out that all the previous awards were accepted and State Government and the Acquiring Body acquiesced to the previous awards at exh.43 to 46 and the claimants of all those awards were paid amount of compensation as awarded by the Reference Court in those awards. In our opinion, Reference Court had awarded just, reasonable and adequate compensation to the respondents for their acquired lands situated at village Bamosana and no interference of this Court is called for. We, therefore, confirm the market value of the acquired lands of respondents situated at village Bamosana as on 7th May, 1991 at the rate of Rs.10.00 per sq.mt. as awarded by the Reference Court. The other statutory benefits under the Act extended in favour of the

respondents are also eminently just and proper and does not call for any interference.

No other contention is raised before us.

As a result of foregoing discussion, we do not find any merits in these appeals and they are dismissed with no order as to costs.

05.04.2000 [M.H. KADRI, J]

[C.K. BUCH, J]

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